

September 30, 2005

MEMORANDUM

TO: Lydia Parnes, Director
Bureau of Consumer Protection

FROM: Howard Sribnick
Inspector General

SUBJECT: OIG Audit Survey of the Do Not Call Registry Scrubbing Process (AR-05-067)

The Office of Inspector General (OIG) recently completed an audit survey of procedures used by the Federal Trade Commission (FTC) to remove invalid numbers from the Do Not Call (DNC) Registry.¹ The objectives of this survey were to determine whether registered phone numbers were being improperly removed (scrubbed) from the registry, and to document the reason for their removal. To complete this objective, the OIG (i) reviewed criteria used by AT&T to scrub the registry, (ii) defined the role played by local phone companies in the scrubbing process, and (iii) determined whether the removals were made for reasons consistent with contractual agreements and program objectives.

BACKGROUND

On September 18, 2002, the FTC issued final amendments to the Telemarketing Sales Rule, which established the National Do Not Call Registry (the Registry), permitting consumers to register their preference to block certain telemarketing calls. Consumers may register by phone or over the Internet. The number will stay on the Registry for five years unless it is disconnected or until the consumer requests that the number be removed. After five years, the consumer must renew his/her registration.

The law requires telemarketers to search the Registry at least every three months and avoid calling any phone numbers that are on the Registry. If a consumer continues to receive calls from

¹ A survey, as used in the auditing vernacular, refers to a process for gathering information about an organization, program, activity or function without detailed verification. Unlike audits, surveys are generally conducted within limited time frames. Survey outcomes often dictate whether, and to what extent, detailed audits will be performed.

telemarketers after s/he is on the Registry, then the consumer can file a complaint with the FTC. A telemarketer who disregards the Registry could be fined up to \$11,000 for each call.

In March 2003, the FTC awarded a contract to AT&T Government Solutions, Inc. (AT&T) to manage the Registry. Its responsibilities include providing a vehicle for consumers to place their name on the list, maintaining the Registry, and establishing a gateway for telemarketers to download telephone numbers. An important element of maintaining the Registry is to ensure that it contains only accurate and up-to-date telephone numbers. On a monthly basis, AT&T, through its subcontractor TARGUS, performs procedures to review the Registry and scrubs any numbers that, based upon pre-established criteria, are determined to no longer belong to the individual who placed the number onto the Registry.

As the Registry increased in size, the OIG began to receive a small number of complaints from consumers indicating that they had registered their phone number with the FTC but continued to receive prohibited calls and were unable to log their complaint when they attempted to do so. To their surprise, these consumers were informed that their phone number was not on the Registry. Based upon these complaints, the OIG performed an audit survey to determine if systemic weaknesses exist to warrant an audit of the Registry scrubbing process.

SCOPE AND METHODOLOGY

The OIG reviewed the control environment related to the Registry to document any weaknesses or potential weaknesses in the scrubbing process that would result in consumer phone numbers being scrubbed from the Registry without the consumer's knowledge or consent (e.g., an erroneous scrub).

Based on consumer complaints to the OIG, information collected from the FTC web page and discussions with program staff, the OIG developed a methodology to test whether the scrubbing process removed valid phone numbers along with valid scrubs. Consumers with whom we spoke explained that they did not request removal from the Registry, nor did they move or change phone numbers – two conditions that would result in a legitimate scrub. Hence, we reasoned that an erroneous removal occurred.

During the course of our survey, we learned that AT&T was reporting to the FTC a relatively high incidence of “disconnects.” This number represents consumers who never made it onto the Registry, but believed they had completed the process, e.g., the consumer entered the required information but failed to reply to the confirmation email sent shortly thereafter. A number cannot be added to the Registry without this confirmation reply. This could explain why consumers mistakenly thought they were on the Registry. Telemarketers, therefore, could continue to contact these individuals without violating any laws. The consumer, mistakenly believing that s/he was registered, would have the same potential for dissatisfaction with the Registry and the FTC as a consumer who had properly completed the registration process, but were later erroneously deleted from the Registry.

PROCEDURES AND RESULTS

We performed a series of interviews with DNC managers, FTC IT personnel, AT&T and TARGUS representatives. Through these interviews we obtained an understanding of the control environment and how the overall process operates. In addition, we obtained monthly reports created by AT&T that reflected the activity of registrations, scrubs, and web incompletes both for the current period and cumulatively from the inception of the Registry. We also reviewed correspondence between FTC and AT&T regarding scrubbing issues since the inception of the Registry and how these issues were addressed. Based upon these procedures, we have determined the following:

- A formal and repetitive process exists to review the Registry each month to determine the phone numbers which should be scrubbed;
- This process appears to be functioning as described by all parties involved, although the formal process is not documented to a level that would be considered acceptable in the context of an audit;
- The total numbers “scrubbed” since the inception of the Registry is less than two percent of the total numbers registered. (Given that there are many reasons why a number would be scrubbed, we can conclude that a systematic problem with numbers being erroneously deleted does not exist.);
- Periodically, problems with unusually large numbers of web incompletes have occurred in the past. In each instance, both the FTC and contractor personnel have provided anecdotal evidence as to why the increase occurred; and
- The FTC and contractor staff actively monitored the performance and status of the Registry.

CONCLUSION

The results of our survey do not indicate that large scale, systemic problems exist in the scrubbing process related to the Do Not Call Registry that would warrant a full scale audit at this time. As with any database, there are risks that errors may occur and go undetected. The lack of documentation surrounding the scrubbing process does increase the risk that the controls in place could deteriorate in the future and not be detected in a timely manner by FTC personnel and its contractors. However, the process as described to us during this survey does appear adequate based upon our understanding of the Registry. The lack of significant numbers of customer complaints supports this position on the performance of the Registry.

During the course of our work, the OIG discussed several suggestions as to additional tests or procedures to enhance controls over the scrubbing process. AT&T generally responded that the procedures could not be performed under the current process, or that significant additional cost would be incurred to perform the suggested procedures. Due to the lack of any evidence that large scale systemic problems exist, we would not recommend the incurrence of such a cost at this time.

We do recommend that the FTC continue to actively monitor the performance of the Registry. We specifically recommend that the web incompletes be monitored closely. Any future

occurrences of increased activity similar to what occurred in December 2004 should be investigated and the cause of the problem documented.

We also recommend that during the next renegotiation of the contract, the FTC include specific language giving it access to data, processes and controls with both the contractor and any subcontractors associated with Registry. Periodically, FTC staff should review these controls to ensure they are functioning properly.

I am available to discuss any aspects of this OIG audit survey.